

**SURFACE TRANSPORTATION BOARD
SECTION OF ENVIRONMENTAL ANALYSIS**

POST ENVIRONMENTAL ASSESSMENT

ENVIRONMENTAL RECOMMENDATIONS IN STB DOCKET NO. AB-497 (Sub No. 3X)

November 15, 2006

ABANDONMENT TYPE

The time for comments on the Environmental Assessment (EA) has expired in this:

() Notice of Exemption (X) Petition for Exemption () Regulated Abandonment

() **NO NEW COMMENTS WERE RECEIVED**

(X) **NEW COMMENTS WERE RECEIVED**

SEA served an Environmental Assessment (EA) for this proceeding on October 13, 2006, for public review and comment. In the EA, SEA recommended one environmental condition and concluded that the proposed action would not significantly impact the quality of the human environment.

Comments on the EA

On November 2, 2006, Mr. William Lorenzen, U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS), via telephone, stated that his office submitted a comment on the proposed abandonment in a letter dated July 13, 2006. In this comment, the NRCS determined that the project, as proposed, would not result in any adverse impacts to agricultural lands and therefore a Federal Farmland Policy Protection Act site assessment/land evaluation would not be required. SEA notes that a hard copy of this letter was provided, via e-mail, on November 14, 2006.

In a letter dated October 23, 2006, Ms. Rosemary Berens, Tribal Historic Preservation Officer, Bois Forte Band (Nett Lake) of the Minnesota Chippewa Tribe, Minnesota, states that she is unaware of any cultural or religious sites that may be impacted by salvage activities occurring within the right-of-way. However, in the event that any archaeological sites, human remains, funerary items or associated artifacts are discovered during Minnesota Northern Railroad, Inc.'s (MNR) salvage activities, SEA is recommending that a condition be imposed that would require MNR to immediately cease all work and notify SEA, potentially affected Federally recognized tribes, and the Minnesota Historical Society, and undertake appropriate consultation.

In a letter dated October 25, 2006, Ms. Gina M. Pappasodora, Tribal Historic Preservation Officer, Leech Lake Band of Ojibwe, states that she does not have any concerns regarding sites of religious or cultural importance in the area of the proposed abandonment. However, in the event that any archaeological sites, human remains, funerary items or associated artifacts are discovered during Minnesota Northern Railroad, Inc.'s (MNR) salvage activities,

SEA is recommending that a condition be imposed that would require MNR to immediately cease all work and notify SEA, potentially affected Federally recognized tribes, and the Minnesota Historical Society, and undertake appropriate consultation.

In a letter dated November 7, 2006, Mr. Robert Whiting, Chief, Regulatory Branch, Department of Army, Army Corps of Engineers, St. Paul District (COE), states that the proposed project area does not contain navigable waters of the United States, therefore, the proposed abandonment is not subject to its jurisdiction under Section 10 of the Rivers and Harbors Act of 1899. The COE also state that if the proposed abandonment involves the deposition of dredged fill material into waters of the United States, including discharges associated with mechanical land clearing, the proposed abandonment may be subject to its jurisdiction under Section 404 of the Clean Water Act. However, SEA notes that MNR has stated that proposed salvage activities would not include any in-stream and/or wetland activity or any activity outside of the right-of-way. Therefore, SEA believes that the abandonment, as proposed, will not be subject to review under Section 404 of the Clean Water Act.

In an e-mail dated October 23, 2006, Mr. Simon Monroe, U.S. Department of Commerce, National Geodetic Survey, indicated that approximately 16 geodetic station markers may be located in the area of the proposed abandonment. Accordingly, SEA is recommending that a condition be imposed requiring MNR to notify the National Geodetic Survey (NGS) at least 90 days prior to beginning salvage activities in order to plan for the possible relocation of the geodetic station markers by NGS.

Conclusions

The EA comment period has ended. Accordingly, SEA recommends that the single condition recommended in the EA (Environmental Condition No. 1), as well as the two conditions recommended in this document (Environmental Conditions No. 2 and No. 3), should be imposed upon any decision granting abandonment authority. The combined conditions are:

1. Minnesota Northern Railroad Inc., shall retain its interest in and take no steps to alter the historic integrity of the rail right-of-way itself (excluding the tracks and ties) until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed. Minnesota Northern Railroad Inc. shall report back to the Section of Environmental Analysis regarding any consultations with the SHPO and any other Section 106 consulting parties. Minnesota Northern Railroad Inc. may not file its consummation notice until the Section 106 process has been completed and the Board has removed this condition.
2. Minnesota Northern Railroad, Inc. (MNR) shall notify the National Geodetic Survey (NGS) at least 90 days prior to beginning salvage activities in order to plan for the possible relocation of the geodetic station markers identified by NGS.
3. In the event that any archaeological sites, human remains, funerary items or associated artifacts are discovered during Minnesota Northern Railroad, Inc.'s (MNR) salvage activities, it will immediately cease all work and notify the Surface Transportation Board's Section of Environmental Analysis (SEA), potentially affected Federally recognized tribes, and the Minnesota Historical Society (SHPO). SEA, SHPO, potentially affected Federally recognized tribes, and MNR shall then consult to determine whether any mitigation measures are necessary.

If the above conditions are imposed, SEA believes that the proposed action will not significantly affect the quality of the human environment.

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